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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,347	12/21/2000	Dina Katsir	216-028A	2363

7590 03/27/2003

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EXAMINER

TALBOT, BRIAN K

ART UNIT	PAPER NUMBER
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1762

9

DATE MAILED: 03/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/745,347

Applicant(s)

KATSIR ET AL.

Examiner

Brian K Talbot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 6-28 is/are pending in the application.
- 4a) Of the above claim(s) 10-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) ____.   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other:  |

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1. The amendment filed 1/29/03 has been considered and entered. Claims 4 and 5 have been canceled. Claims 1-3 and 6-28 remain in the application.
2. This application contains claims 10-28 drawn to an invention nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

4. Regarding claim 1, the phrase "fractal-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "-like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

5. Claims 1-3 and 6-9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Drake (4,309,810) alone or in combination with Wasa et al. (3,579,063).

Drake (4,309,810) teaches forming a capacitor by forming a porous high surface over a metal film. An anodizable metal is evaporated in a vacuum chamber to form a metal vapor, the

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metal vapor being directed toward the metal foil substrate. The metal vapor is aluminum. The atmosphere is inert with a trace amount of oxygen present and a partial oxygen pressure up to an including  $10^{-4}$  torr.

Drake (4,309,810) fails to teach a pressure of about  $10^{-3}$  to  $10^{-2}$ .

While the Examiner acknowledges the fact the pressures are different, it is the Examiner's position that one skilled in the art at the time the invention was made would have had a reasonable expectation of achieving similar results because the pressures are so similar.

Wasa et al. (3,579,063) teaches forming film capacitors whereby total pressures for forming a metal film are from  $10^{-2}$  whereby the partial pressure for oxygen is closer to  $10^{-4}$  (see Example 1).

Therefore, it would have been obvious at the time the invention was made to have modified Drake (4,309,810) by incorporating the pressures disclosed in Wasa et al. (3,579,063) with the expectation of achieving similar success.

### ***Response to Amendment***

6. Applicant's arguments filed 1/29/03 have been fully considered but they are not persuasive.

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Applicant argued that Drake fails to teach the claimed invention in that Drake teaches a structure that is columnar and not "fractal-like".

The Examiner agrees in part. While the Examiner acknowledges the fact that the reference fails to teach or recognize that the coating is "fractal-like", the claimed process steps are similar and hence would produce a fractal-like structure although it may be columnar as well. Applicant is to provide reasons why a similar process would produce different coatings. Applicant is reminded that the claims must be commensurate in scope with the showing of unexpected results.

Applicant argued that Wasa teaches depositing lead which is not a valve metal.

While the Examiner acknowledges the fact that lead is taught, titanium is also taught and is a valve metal. Wasa teaches depositing a titanium/lead coating which would still meet the claimed limitation which do not exclude additional metals which are not valve metals.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K Talbot whose telephone number is (703) 305-3775. The examiner can normally be reached on Monday-Friday 6AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3775.



Brian K Talbot  
Primary Examiner  
Art Unit 1762

BKT

March 25, 2003